

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

STEVE KIM, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

U.S. BANCORP and U.S. BANK NATIONAL
ASSOCIATION,

Defendants.

NO. 2:20-CV-00032-RSL

**PLAINTIFF'S MOTION FOR CONDITIONAL
CERTIFICATION AND JUDICIAL NOTICE**

**NOTED FOR CONSIDERATION:
APRIL 17, 2020**

PLAINTIFF'S MOTION FOR CONDITIONAL CERTIFICATION AND JUDICIAL
NOTICE

CASE NO. 2:20-CV-00032-RSL

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I. INTRODUCTION

This is a straightforward class and collective action against U.S. Bancorp and U.S. Bank National Association (collectively, “U.S. Bank”) for failing to pay non-exempt Branch Assistant Managers (also known as Customer Service Managers and/or Sales and Service Managers) (collectively, “BAMs”) for all the overtime hours they worked. It is precisely the type of case that should be conditionally certified under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b).

Although U.S. Bank properly classifies BAMs as overtime-eligible and entitled to the FLSA’s protections, U.S. Bank does not pay BAMs premium overtime compensation for the hours they work in excess of 40 in a workweek. U.S. Bank BAMs perform “off-the-clock” work for three reasons. First, BAMs arrive to their branches before their scheduled shifts begin to perform opening procedures, and BAMs stay after the conclusion of their scheduled shifts to perform closing procedures. U.S. Bank does not allow them to record all of this pre- and post-shift time. Second, BAMs routinely work through meal breaks but are directed to record unpaid 30-minute meal breaks on their timesheets. Third, BAMs regularly work from home on their days off, answering telephone calls and text messages from Branch Managers and tellers, but are not allowed to record this time.

Plaintiff Steve Kim supports these allegations with his own declaration and with the declarations of six other U.S. Bank BAMs who worked in thirteen different branches in five different states. This showing is more than sufficient to meet the lenient standard that courts apply when evaluating motions for Court-authorized FLSA notice. Notice is necessary so that other BAMs can find out about their right to join this case, toll the statute of limitations on their claims, and collectively vindicate their unpaid wage claims.

Plaintiff seeks to send notice to:

1 All persons nationwide who, at any time from December 11, 2016¹ to the
2 date of the final judgment in this matter, are or were employed as BAMs
3 by U.S. Bank.

4 Plaintiff further requests that the Court enter an order providing the following relief:

5 1. Directing U.S. Bank to produce to Plaintiff within seven days of the entry of the
6 Court's order:

7 A list, in electronic, delimited, and importable format, of all members of
8 the collective action, as defined above, including each member's: (1)
9 name, (2) last known mailing address, (3) last known telephone number,
10 (4) last known personal email address, (5) job title, (6) dates and location
11 of employment, (7) employee number, (8) date of birth, and (9) Social
12 Security number (last four digits only).

13 2. Approving the form and content of Plaintiff's proposed judicial notice,
14 reminder notice, and a notice website through which proposed opt-in plaintiffs can submit a
15 consent form, all of which are attached as Exhibits 1-5 to the Declaration of Toby Marshall in
16 Support of Plaintiff's Motion for Conditional Certification and Judicial Notice ("Marshall
17 Declaration");²

18 3. Authorizing Plaintiff to send the proposed judicial notice to all members of the
19 collective action via U.S. Mail and email, as well as via website, and to send a reminder notice
20 21 days before the expiration of the opt-in period; and

21 4. Providing members of the collective action 60 days from the time notice is
22 initially sent out to opt-in and join the lawsuit.

23 II. STATEMENT OF FACTS

24 A. The parties.

25 1. Defendants.

26 U.S. Bank is one of the largest financial institutions in the United States, with
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¹ The parties entered into an agreement to toll the statute of limitations for a combined total
of four weeks before Mr. Kim filed the Complaint on January 8, 2020.

² All exhibits are attached to the Marshall Declaration.

1 approximately 70,000 employees nationwide as of December 31, 2019.³ U.S. Bancorp is a
 2 bank holding company while U.S. Bank National Association is the principal banking subsidiary
 3 of U.S. Bancorp and a nationally chartered banking association. Complaint ¶¶ 25, 32.

4 2. Plaintiff and the proposed collective.

5 Plaintiff was employed by U.S. Bank as a BAM in an Auburn, Washington branch from
 6 approximately January 2016 to April 2017. Declaration of Steve Kim ("Kim Decl.") ¶ 2. Other
 7 BAMs who have joined this case as opt-in plaintiffs worked at various U.S. Bank locations in
 8 Missouri, Oregon, Tennessee, and Wisconsin. Declaration of Mandy Bissell ("Bissell Decl.")
 9 ¶ 2; Declaration of Zachary Fisher ("Fisher Decl.") ¶ 2; Declaration of Daniel Schneider
 10 ("Schneider Decl.") ¶ 2; Declaration of Heather Staat ("Staat Decl.") ¶ 2; Declaration of Justin
 11 Whisenhunt (Whisenhunt Decl.") ¶ 2; Declaration of Allison Wile ("Wile Decl.") ¶ 2.

12 *i. All BAMs share similar job duties and responsibilities.*

13 Regardless of where BAMs work, they share the same primary job duties: assisting
 14 clients, selling products, opening and closing accounts, providing back office support, initiating
 15 check requests, wires, and electronic transfers, handling telephone calls, performing general
 16 clerical duties, and more. Bissell Decl. ¶ 5; Fisher Decl. ¶ 5; Kim Decl. ¶ 5; Schneider Decl. ¶ 5;
 17 Staat Decl. ¶ 5; Whisenhunt Decl. ¶ 5; Wile Decl. ¶ 5.

18 *ii. BAMs regularly work more than 40 hours per week to complete their job*
 19 *requirements.*

20 Since November 2016, U.S. Bank has classified BAMs as non-exempt employees and is
 21 therefore required to pay them an overtime premium for all hours worked over 40 in a
 22 workweek. Although U.S. Bank typically includes only 40 hours each week on their schedules,
 23 it relies on BAMs to work beyond their scheduled hours to complete the requirements of their
 24 jobs. Bissell Decl. ¶ 8; Fisher Decl. ¶ 9; Kim Decl. ¶ 8; Schneider Decl. ¶ 8; Staat Decl. ¶ 9;
 25 Whisenhunt Decl. ¶ 8; Wile Decl. ¶ 8.

26 ³ U.S. Bank, About U.S. Bank, <https://www.usbank.com/about-us-bank.html> (Last visited Mar.
 27 19, 2020).

1 BAMS' off the clock work occurs in three ways. First, BAMS arrive to the branches
 2 before their scheduled shifts begin to perform opening procedures, and BAMS stay after the
 3 conclusion of their scheduled shifts to perform closing procedures. Bissell Decl. ¶¶ 8, 10;
 4 Fisher Decl. ¶¶ 10, 11, 12; Kim Decl. ¶¶ 8, 10; Schneider Decl. ¶¶ 8, 10, 11; Staat Decl. ¶ 9;
 5 Whisenhunt Decl. ¶¶ 8, 10, 11; Wile Decl. ¶¶ 8, 10, 11. Second, BAMS routinely work through
 6 unpaid meal breaks. Bissell Decl. ¶ 9; Fisher Decl. ¶ 9; Kim Decl. ¶ 9; Schneider Decl. ¶ 9;
 7 Staat Decl. ¶ 8; Whisenhunt Decl. ¶ 9; Wile Decl. ¶ 9. Third, BAMS regularly work from home
 8 on their days off, answering telephone calls and text messages from Branch Managers and
 9 tellers. Bissell Decl. ¶ 11; Kim Decl. ¶ 11; Staat Decl. ¶ 9; Whisenhunt Decl. ¶ 10; Wile Decl.
 10 ¶ 12.

11 U.S. Bank's Branch Managers do not allow BAMS to record all of the overtime hours
 12 they work. Bissell Decl. ¶ 14; Fisher Decl. ¶ 15; Kim Decl. ¶ 11; Schneider Decl. ¶ 14; Staat
 13 Decl. ¶ 13; Whisenhunt Decl. ¶ 15; Wile Decl. ¶ 15. Branch Managers and District Managers
 14 have directed BAMS to change their timesheets to ensure they do not reflect overtime hours.
 15 Bissell Decl. ¶ 14 ("[O]n two occasions I attempted to submit timesheets with my actual hours
 16 worked and both of those times my Branch Manager, Jaclyn Lindsay, made me change the
 17 timesheet to ensure that it did not reflect overtime hours."); Fisher Decl. ¶ 15 ("In the event
 18 that any branch employee recorded overtime, we would receive an email from our District
 19 Manager, Jeff Sanbor, admonishing us for recording overtime and instructing us not to do so
 20 again."); Kim Decl. ¶ 18 ("For the first two or three weeks after I was classified as non-exempt
 21 in November 2016, I logged some but not all of the overtime hours I worked each week on my
 22 timecard because I knew that having overtime on the payroll reflected poorly on my branch
 23 manager. I then learned that my branch manager was receiving pressure from U.S. Bank
 24 district management to avoid having overtime on her payroll for the branch. In fact, my
 25 branch manager told the employees at the Auburn branch that we could not work overtime
 26 hours."); Staat Decl. ¶ 14 ("I recall that on the few occasions that I did submit weekly hours
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1 which totaled greater than one overtime hour, that I was questioned by Jennifer Sullivan, who
 2 was administrative assistant for Donny Carver, the District Manager. Ms. Sullivan advised me
 3 on each occasion that going forward I could not record overtime.”); Whisenhunt Decl. ¶ 15 (“I
 4 recall that when I was first reclassified to a non-exempt employee, I attempted to submit a
 5 timesheet reflecting all hours that I worked. After attempting to do so, I was scolded by my
 6 Branch Manager, Skii Van Dracek, and told not to record more than 40 hours.”). Although U.S.
 7 Bank has allowed BAMs to record some pre-approved overtime, U.S. Bank rarely grants pre-
 8 approval. Bissell Decl. ¶¶ 14, 15; Fisher Decl. ¶¶ 15, 16; Schneider Decl. ¶¶ 14, 15; Staat Decl.
 9 ¶¶ 13, 15; Whisenhunt Decl. ¶¶ 15, 16; Wile Decl. ¶ 16.

10 Despite this, managers direct BAMs to work as much time as necessary, including
 11 hours in excess of 40 hour per work week, to complete their job duties. Bissell Decl. ¶ 13;
 12 Fisher Decl. ¶ 14; Kim Decl. ¶ 14; Schneider Decl. ¶ 13; Staat Decl. ¶ 12; Whisenhunt Decl. ¶
 13 14; Wile Decl. ¶ 14. BAMs cannot complete their job duties in less than 40 hours per work
 14 week. Bissell Decl. ¶¶ 12, 15; Fisher Decl. ¶¶ 13, 16; Kim Decl. ¶¶ 16; Schneider Decl. ¶¶ 12,
 15 15; Staat Decl. ¶¶ 11, 15; Whisenhunt Decl. ¶¶ 13, 16; Wile Decl. ¶¶ 13, 16. BAMs, therefore,
 16 regularly work overtime hours off the clock and without compensation. Bissell Decl. ¶ 16;
 17 Fisher Decl. ¶ 17; Kim Decl. ¶ 16; Schneider Decl. ¶ 16; Staat Decl. ¶ 16; Whisenhunt Decl. ¶
 18 17; Wile Decl. ¶ 17.

19 U.S. Bank is aware that BAMs work overtime hours. Bissell Decl. ¶ 14; Fisher Decl. ¶
 20 15; Kim Decl. ¶ 16; Schneider Decl. ¶ 14; Staat Decl. ¶¶ 13, 14; Whisenhunt Decl. ¶ 15; Wile
 21 Decl. ¶ 15. BAMs regularly work between approximately 3 and 20 off-the-clock, unpaid,
 22 overtime hours each week. Bissell Decl. ¶ 12 (“[I]n a typical week, I worked approximately 45
 23 to 46 hours to meet U.S. Bank’s requirements for the BAM position.”); Fisher Decl. ¶ 13 (“[I]n
 24 a typical week, I worked approximately 44 to 48 hours to meet U.S. Bank’s requirements for
 25 the BAM position.”); Kim Decl. ¶ 13 (“[I]n a typical week, I worked approximately 60 hours to
 26 meet U.S. Bank’s requirements for the BAM position.”); Schneider Decl. ¶ 12 (“[I]n a typical
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1 week, I worked approximately 43 to 45 hours to meet U.S. Bank's requirements for the BAM
 2 position."); Staat Decl. ¶ 11 ("[I]n a typical week, I worked approximately 44 to 46 hours to
 3 meet U.S. Bank's requirements for the BAM position."); Whisenhunt Decl. ¶ 13 ("[I]n a typical
 4 week, I worked approximately 44.5 to 46 hours to meet U.S. Bank's requirements for the BAM
 5 position."); Wile Decl. ¶ 13 ("[I]n a typical week, I worked approximately 46 to 56 hours to
 6 meet U.S. Bank's requirements for the BAM position.").

7 III. AUTHORITY AND ARGUMENT

8 A. The Court should conditionally certify the proposed collective and authorize timely 9 notice to similarly situated employees.

10 The FLSA authorizes employees to sue for unpaid overtime wages in a "collective
 11 action" on behalf of "other employees similarly situated." 29 U.S.C. § 216(b). The collective
 12 action mechanism serves the "broad remedial goal" of the FLSA because it avoids a
 13 "multiplicity of duplicative suits" by allowing employees whose claims are often small and not
 14 likely to be brought on an individual basis to join together and "pool[] resources" to lower
 15 costs and efficiently resolve common issues of law and fact. *Hoffmann-La Roche Inc. v.*
 16 *Sperling*, 493 U.S. 165, 170-73 (1989); *see also Bollinger v. Residential Capital, LLC*, 761 F.
 17 Supp. 2d 1114, 1119 (W.D. Wash. 2011) ("FLSA collective actions serve to lower the cost of
 18 litigation for individual claimants and promote efficiency in resolution of claims and the use of
 19 judicial resources.").

20 The benefits of a collective action "depend on employees receiving accurate and
 21 timely notice concerning the pendency of the [case], so that they can make informed
 22 decisions about whether to participate." *Hoffmann-La Roche*, 493 U.S. at 170. Unlike a class
 23 action under Federal Rule of Civil Procedure 23, in which employees are members of the class
 24 unless they affirmatively opt out, each individual member or "party plaintiff" of an FLSA
 25 collective action must affirmatively opt in to the case by filing a written consent to join the
 26 suit. Until those individuals opt in, the statute of limitations on their claims continues to run,
 27 making timely notice critical. *See Bollinger*, 761 F. Supp. 2d at 1122; *see also Randolph v.*

1 *Centene Mgmt. Co.*, No. 14 Civ. 5730, 2015 WL 2062609, at *4 (W.D. Wash. May 4, 2015)
 2 (quoting *Hoffmann-La Roche*, 493 U.S. at 170).

3 Courts follow a two-stage approach to adjudicating collective actions. *See Bolding v.*
 4 *Banner Bank*, No. 17 Civ. 0601 (RSL), 2017 WL 6406136, at *1 (W.D. Wash. Dec. 15, 2017) (“In
 5 the Ninth Circuit, certification of a collective action is generally a two-step process.”); *see also*
 6 *Hipp v. Liberty Nat’l Life Ins. Co.*, 252 F.3d 1208, 1219 (11th Cir. 2001) (two-stage approach is
 7 “an effective tool for district courts to use in managing these often complex cases”). At the
 8 first stage, where this case currently sits, “the issue is whether plaintiffs have identified other
 9 employees who are similarly situated to them, such that they are potential opt-in plaintiffs
 10 and should be given notice of the action.” *Bolding*, 2017 WL 6406136, at *1. The second
 11 stage begins after notice has issued, the opt-in period has expired, discovery has been
 12 completed, and “the case is ready to be tried.” *Id.* At that point, the Court conducts “a more
 13 searching review.” *Id.*

14 With this motion, Plaintiff respectfully asks the Court to take the first step in the
 15 collective action process by finding that other BAMs are likely to be similarly situated to
 16 Plaintiff and authorizing accurate and timely notice pursuant to 29 U.S.C. § 216(b).

17 **B. Plaintiff meets the lenient similarly situated standard.**

18 The standard for determining whether individuals are similarly situated is “lenient”
 19 and “usually results in certification.” *Bollinger*, 761 F. Supp. 2d at 1119 (quoting *Leuthold v.*
 20 *Destination Am., Inc.*, 224 F.R.D. 462, 468 (N.D. Cal. 2004)). “[T]he similarly situated
 21 requirement of 29 U.S.C. § 216(b) is considerably less stringent than the requirement of that
 22 common questions predominate.” *Heagney v. European Am. Bank*, 122 F.R.D. 125, 127 n. 2
 23 (E.D.N.Y. 1988) (internal quotation marks omitted); *see also Troy v. Kehe Food Distribs., Inc.*,
 24 276 F.R.D. 642, 649 (W.D. Wash. 2011) (noting that “FLSA collective actions are not subject to
 25 the numerosity, commonality, and typicality rules of a class action suit brought under Rule
 26 23”). The lenient standard is appropriate because, at this early stage, the plaintiff has not yet
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1 had discovery and has access only to “minimal evidence.” *See Orquiza v. Walldesign, Inc.*, No.
2 11 Civ. 1374, 2012 WL 3561971, at *2 (D. Nev. Aug. 16, 2012) (citations omitted).

3 “Because ‘the sole consequence of conditional certification is the sending of court-
4 approved written notice to employees’ . . . little more is required than ‘substantial allegations,
5 supported by declarations or discovery, that the putative class members were together the
6 victims of a single decision, policy, or plan and a showing that plaintiffs are generally
7 comparable to those they seek to represent.’” *Bolding*, 2017 WL 6406136, at *1 (citations
8 omitted).

9 At this stage, the court “does not resolve factual disputes, decide substantive issues
10 going to the ultimate merits, or make credibility determinations.” *Douglas v. Xerox Bus.*
11 *Servs. LLC*, No. 12 Civ. 1798, 2014 WL 3396112, at *3 (W.D. Wash. July 10, 2014) (citations
12 omitted). Rather, the court need only satisfy itself that there is a “reasonable basis” for
13 plaintiff’s claims of class-wide injury. *Bollinger*, 761 F. Supp. 2d at 1119 (quoting *Khadera v.*
14 *ABM Indus., Inc.*, 701 F. Supp. 2d 1190, 1194 (W.D. Wash. 2010)).

15 Plaintiff satisfies this lenient burden. The proposed collective includes BAMs with
16 similar primary job duties. Bissell Decl. ¶ 5; Fisher Decl. ¶ 5; Kim Decl. ¶ 5; Schneider Decl.
17 ¶ 5; Staat Decl. ¶ 5; Whisenhunt Decl. ¶ 5; Wile Decl. ¶ 5. To complete these job duties, they
18 regularly work overtime hours. Bissell Decl. ¶¶ 8-13; Fisher Decl. ¶¶ 8-14; Kim Decl. ¶¶ 13-
19 16; Schneider Decl. ¶¶ 8-13; Staat Decl. ¶¶ 8-12; Whisenhunt Decl. ¶¶ 8-14; Wile Decl. ¶¶ 8-
20 14. Using standard tactics, U.S. Bank prevents them from recording all of their overtime
21 hours and does not properly pay them overtime compensation. Bissell Decl. ¶¶ 14-16; Fisher
22 Decl. ¶¶ 15-17; Kim Decl. ¶¶ 17-20; Schneider Decl. ¶¶ 14-16; Staat Decl. ¶¶ 13-16;
23 Whisenhunt Decl. ¶¶ 15-17; Wile Decl. ¶¶ 15-17.

24 Whether U.S. Bank’s common policy and practice of requiring or permitting off-the-
25 clock work violates the law presents a legal question that is the same for all proposed
26 collective action members. *See, e.g., Bolding*, 2017 WL 6406136, at *2 (conditionally
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certifying collective action where “plaintiffs have sufficiently supported their allegations of a uniform policy resulting in unpaid hours”); *Wilson v. Maxim Healthcare Servs., Inc.*, No. 14 Civ. 789 (RSL), 2014 WL 7340480, at *8 (W.D. Wash. Dec. 22, 2014) (granting plaintiffs’ motion for conditional certification to allow class members to “collectively adjudicate” their overtime claims); *Labrie v. UPS Supply Chain Sols., Inc.*, No. 08 Civ. 3182, 2009 WL 723599 at *6 (N.D. Cal. Mar. 18, 2009) (granting conditional certification where “Plaintiffs have made substantial allegations that potential plaintiffs were subject to a single illegal policy, plan or decision”); *Adams v. Inter-Con Sec. Sys., Inc.*, 242 F.R.D. 530, 537 (N.D. Cal. 2007) (“[A]ctions with off-the-clock allegations are suitable for collective action certification.”).

C. The Court should approve the proposed notice forms and order U.S. Bank to produce identifying information for similarly situated employees.

The benefits of the collective action mechanism “depend on employees receiving accurate and timely notice . . . so that they can make informed decisions about whether to participate.” *Hoffmann-La Roche*, 493 U.S. at 170. Prompt court involvement is necessary both “to ensure[] that ‘the task is accomplished in an efficient and proper way’” and because the claims of potential opt-in plaintiffs are being diminished or extinguished by the running of the statute of limitations. *Bollinger*, 761 F. Supp. 2d at 1122 (quoting *Hoffmann-La Roche*, 493 U.S. at 171). “[E]very day that passes is a day of damages each potential opt-in plaintiff will be unable to recover. Court-facilitated notice will prevent the continued erosion of these claims.” *Lynch v. United Servs. Auto. Ass’n*, 491 F. Supp. 2d 357, 371 (S.D.N.Y. 2007).

1. Plaintiff’s proposed notice is accurate and informative, and the proposed notice methods are appropriate.

Plaintiff’s proposed notice provides potential opt-in plaintiffs with an accurate description of this lawsuit as well as their rights under the FLSA. See Exs. 1-5 to Marshall Decl.

U.S. Mail, email, and a case-specific website are all appropriate ways for potential opt-in plaintiffs to receive notice and submit consent forms. Courts agree that the issuance of notice in these ways will ensure that all proposed collective members are reached as soon as

possible. *See Bazzell v. Body Contour Centers, LLC*, C16-0202JLR, 2016 WL 3655274, at *6-8 (W.D. Wash. July 8, 2016) (approving notice via U.S. mail and email); *see also Atkinson v. TeleTech Holdings, Inc.*, No. 14 Civ. 253, 2015 WL 853234, at *5 (S.D. Ohio Feb. 26, 2015) (recognizing that sending notice by both mail and email “advances the remedial purpose of the FLSA” and is “in line with the current nationwide trend”); *Rhodes v. Truman Med. Ctr., Inc.*, No. 13 Civ. 990, 2014 WL 4722285, at *5 (W.D. Mo. Sept. 23, 2014) (“[E]mail provides an efficient and cost-effective means of disseminating notice documents and has been endorsed by courts in the past.”); *Prejean v. O’Brien’s Response Mgmt., Inc.*, No. 12 Civ. 1045, 2013 WL 5960674, at *10 (E.D. La. Nov. 6, 2013) (granting request for notice by mail and email since “notice by both e-mail and first-class mail is both routine and reasonably calculated to accomplish the broad remedial goals of the notice provision of the FLSA”).

Emailed notice is especially important, as one court recognized years ago:

The Court notes that in 2015 it should rarely be entertaining arguments about the appropriateness of email notice. Email is not the wave of the future; email is the wave of the last decade and a half. Many people use their email address as their primary point of contact, and in almost every situation, more opt-in plaintiffs will be on notice of a pending collective action if the putative class members are also notified via email. Ex. 6 to Marshall Decl. (*Rodriguez v. Stage 3 Separation, LLC*, Slip Op., No. 14 Civ. 603, at *2 n.1 (W.D. Tex. Mar. 16, 2015), ECF 57); *see also Pippins v. KPMG LLP*, No. 11 Civ. 377, 2012 WL 19379, at *14 (S.D.N.Y. Jan. 3, 2012) (“[G]iven the reality of communications today, . . . the provision of email addresses and email notice in addition to notice by first class mail is entirely appropriate.”).

Potential opt-in plaintiffs should be given 60 days to submit claim forms. *See Bazzell*, 2016 WL 3655274, at *6 & n.8; *see also Senne v. Kan. City Royals Baseball Corp.*, No. 14 Civ. 608, 2015 WL 6152476, at *19 (N.D. Cal. Oct. 20, 2015) (“[T]imeframes of sixty to ninety days appear to have become the presumptive standard in this District.” (quoting *Sanchez v. Sephora USA, Inc.*, No. 11 Civ. 3396, 2012 WL 2945753, at *6 (N.D. Cal. July 18, 2012))).

2. A reminder notice is appropriate.

The Court should also authorize a reminder notice, attached as Exhibit 3 to the Marshall Declaration, to proposed collective members who have not submitted consent forms as of 15 days before the opt-in deadline. *Knox v. Jones Grp.*, 208 F. Supp. 3d 954, 964-65 (S.D. Ind. 2016) (“Deadline reminders are commonplace and will not appear to endorse the merits of the case.”). Courts routinely allow such reminder notices. *See, e.g., Bazzell*, 2016 WL 3655274 at *6 (approving sending of reminder letter on or about 15 days before opt-in deadline); *Kidd v. Mathis Tire & Auto Serv., Inc.*, No. 14 Civ. 2298, 2014 WL 4923004, at *3 (W.D. Tenn. Sept. 18, 2014) (finding reminder proper); *Thomas v. Kellogg Co.*, No. 13 Civ. 5136, 2014 WL 716152, at *3 (W.D. Wash. Jan. 9, 2014) (approving a post-card reminder to all class members who did not return opt-in form within 30 days); *Morris v. Lettire Const., Corp.*, 896 F. Supp. 2d 265, 275 (S.D.N.Y. 2012) (“Given that notice under the FLSA is intended to inform as many potential plaintiffs as possible of the collective action and their right to opt-in, we find that a reminder notice is appropriate.”).

3. The Court should order U.S. Bank to produce information necessary for Plaintiff to disseminate notice to the proposed collective.

The identification of potential members of the collective is necessary for Plaintiff to notify them of the action as contemplated by the FLSA. *See Hoffmann-La Roche*, 493 U.S. at 170 (affirming district court decision permitting discovery of names and addresses of proposed class members). Accordingly, the Court should order U.S. Bank to provide Plaintiff with a list of all potential opt-in plaintiffs and their contact information. To enable notice to be sent in a timely and effective fashion, Plaintiff specifically asks that the Court direct U.S. Bank to produce, within seven days of its order, an electronic list of all persons who fit within the proposed class, including each proposed collective member’s: (1) name, (2) last known mailing address, (3) last known telephone number, (4) last known personal email address, (5) job title, (6) dates and location of employment, (7) employee number, (8) date of birth, and

(9) Social Security number (last four digits only).⁴ Such an order is common under these circumstances and necessary to facilitate effective notice. *See, e.g., Thomas*, 2014 WL 716152, at *2-3 (ordering defendants to provide contact information, “including last four digits of the [S]ocial [S]ecurity numbers of the class members whose notices [were] returned without forwarding addresses” and to produce the data “in a manipulable electronic format such as Microsoft Excel”). The information requested will aid in the prompt dissemination of the Court-approved notice.

IV. CONCLUSION

For all of the foregoing reasons, the Court should conditionally certify this case as a collective action, approve the proposed notice plan, and order production of the class list.

RESPECTFULLY SUBMITTED AND DATED this 19th day of March, 2020.

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⁴ The last four digits of a Social Security number and a date of birth are useful in tracking change of address information.

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CERTIFICATE OF SERVICE

I, Toby J. Marshall, hereby certify that on March 19, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

DATED this 19th day of March, 2020.

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CERTIFICATE OF SERVICE

I, Toby J. Marshall, hereby certify that on March 19, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. Counsel for Defendants has not yet formally appeared, but I understand Joan B. Tucker Fife of Winston & Strawn LLP (jfife@winston.com) represents Defendants. Accordingly, I will see that this document is emailed to Ms. Fife on March 20, 2020. If she is unable to accept service, I will see that Defendants are served with a copy through their registered agents. Either way, I will file another certificate of service once service is complete.

DATED this 19th day of March, 2020.

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